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SENATE BILL 166

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Peter Wirth and Bill B. O'Neill

AN ACT

RELATING TO CRIMINAL LAW; REVISING THE CRIME OF STALKING;
ADDING A DEFINITION; AMENDING A SECTION OF THE CRIMINAL CODE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 30-3A-1 NMSA 1978 (being Laws 1997,
Chapter 10, Section 1) is amended to read:

"30-3A-1. SHORT TITLE.--~~[Sections 1 through 5 of this
act]~~ Chapter 30, Article 3A NMSA 1978 may be cited as the
"Harassment and Stalking Act"."

Section 2. Section 30-3A-3 NMSA 1978 (being Laws 1997,
Chapter 10, Section 3) is amended to read:

"30-3A-3. STALKING--PENALTIES.--

A. Stalking consists of a person knowingly pursuing
a pattern of conduct, ~~[that]~~ without lawful authority, directed
at a specific individual when the person knows or should know

underscored material = new
[bracketed material] = delete

underscored material = new
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1 ~~that the pattern of conduct would cause a reasonable person [to~~
2 ~~feel frightened, intimidated or threatened. The alleged~~
3 ~~stalker must intend to place another person in reasonable~~
4 ~~apprehension of death, bodily harm, sexual assault, confinement~~
5 ~~or restraint or the alleged stalker must intend to cause a~~
6 ~~reasonable person] to fear for [his] personal safety or the~~
7 ~~safety of a household member. [In furtherance of the stalking,~~
8 ~~the alleged stalker must commit one or more of the following~~
9 ~~acts on more than one occasion:~~

10 ~~(1) following another person, in a place other~~
11 ~~than the residence of the alleged stalker;~~

12 ~~(2) placing another person under surveillance~~
13 ~~by being present outside that person's residence, school,~~
14 ~~workplace or motor vehicle or any other place frequented by~~
15 ~~that person, other than the residence of the alleged stalker;~~
16 ~~or~~

17 ~~(3) harassing another person.]~~

18 B. As used in this section:

19 (1) "household member" means a spouse, former
20 spouse, family member, including a relative, parent, present or
21 former stepparent, present or former in-law, child or co-parent
22 of a child, or a person with whom the victim has had a
23 continuing personal relationship. Cohabitation is not
24 necessary to be deemed a household member for the purposes of
25 this section; and

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underscoring material = new
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1 (2) "pattern of conduct" means two or more
2 acts in which the alleged stalker by any action, method, device
3 or means, directly, indirectly or through third parties,
4 follows, monitors, observes, surveils, threatens or
5 communicates to or about a person or interferes with a person's
6 property.

7 C. In a prosecution pursuant to this section, it is
8 not a defense that the accused:

9 (1) was not given actual notice that the
10 pattern of conduct was unwanted; or

11 (2) did not intend to cause the victim fear or
12 other emotional distress.

13 [~~E.~~] D. Whoever commits stalking is guilty of a
14 misdemeanor. Upon a second or subsequent conviction, the
15 offender is guilty of a fourth degree felony.

16 [~~D.~~] E. In addition to any punishment provided
17 pursuant to the provisions of this section, the court shall
18 order a person convicted of stalking to participate in and
19 complete a [~~program of professional counseling at his own~~
20 ~~expense~~] domestic violence offender treatment or intervention
21 program."

22 Section 3. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2009.